

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

VANESSA DANIELLE KENLEY
10284 Wateridge Circle #246
San Diego, CA 92121

Registered Nurse License No. 727980

Respondent

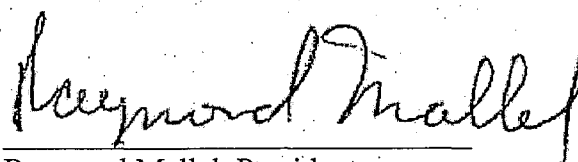
Case No. 2012-747

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 5, 2012.**

IT IS SO ORDERED **November 5, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
4 State Bar No. 254663
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2091
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **VANESSA DANIELLE KENLEY**
13 **10284 Wateridge Circle #246**
14 **San Diego, CA 92121**

15 **Registered Nurse License No. 727980**

16 Respondent.

Case No. 2012-747

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

17
18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
26 Registered Nursing. She brought this action solely in her official capacity and is represented in
27 this matter by Kamala D. Harris, Attorney General of the State of California, by Lauro A.
28 Paredes, Deputy Attorney General.

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2012-747.

4 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
5 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order
6 below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or her counsel. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be
16 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
17 further action by having considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order for Public Reprimand, including facsimile signatures thereto, shall have the
20 same force and effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order for Public Reprimand is intended by
22 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
23 of their agreement. It supersedes any and all prior or contemporaneous agreements,
24 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
25 Settlement and Disciplinary Order for Public Reprimand may not be altered, amended, modified,
26 supplemented, or otherwise changed except by a writing executed by an authorized representative
27 of each of the parties.
28

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Registered Nurse License No. 727980 issue to Respondent
6 Vanessa Danielle Kenley (Respondent) shall, by way of letter from the Board's Executive
7 Officer, be publicly reprovod. The letter shall be in the same form as the letter attached as Exhibit
8 B to this stipulation.

9 15. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
10 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
11 amount of \$1,890.00. Respondent shall be permitted to pay these costs in a payment plan
12 approved by the Board.

13 **ACCEPTANCE**

14 I have carefully read the Stipulated Settlement and Disciplinary Order for Public Reapproval.
15 I understand the stipulation and the effect it will have on my Registered Nurse License. I enter
16 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
17 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

18
19 DATED: 8/21/12

Vanessa Kenley
VANESSA DANIELLE KENLEY
Respondent

20
21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

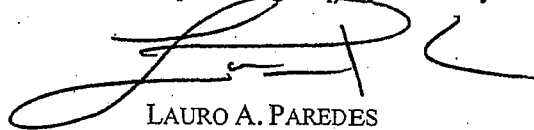
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



LAURO A. PAREDES
Deputy Attorney General
Attorneys for Complainant

SD2012802366
Stipulation.rtf

Exhibit A

Accusation No. 2012-747

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. **2012-747**

13 **VANESSA DANIELLE KENLEY**
14 **10284 Wateridge Circle #246**
San Diego, CA 92121

A C C U S A T I O N

15 **Registered Nurse License No. 727980**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs.

24 2. On or about June 12, 2008, the Board of Registered Nursing issued Registered
25 Nurse License Number 727980 to Vanessa Danielle Kenley (Respondent). The Registered
26 Nurse License was in full force and effect at all times relevant to the charges brought herein and
27 will expire on June 30, 2014, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480;
or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of
3 the crime in order to fix the degree of discipline or to determine if the conviction
is substantially related to the qualifications, functions, and duties of the licensee in
question.

4 As used in this section, "license" includes "certificate," "permit,"
5 "authority," and "registration."

6 9. Section 2761 of the Code states:

7 The board may take disciplinary action against a certified or licensed
nurse or deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
9 following:

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

12
13 10. Section 2762 of the Code states:

14 In addition to other acts constituting unprofessional conduct within the
15 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
for a person licensed under this chapter to do any of the following:

16
17 (b) Use any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or any
18 dangerous drug or dangerous device as defined in Section 4022, or alcoholic
19 beverages, to an extent or in a manner dangerous or injurious to himself or
20 herself, any other person, or the public or to the extent that such use impairs his or
her ability to conduct with safety to the public the practice authorized by his or
her license.

21 (c) Be convicted of a criminal offense involving the prescription,
22 consumption, or self-administration of any of the substances described in
23 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

24
25 11. Section 2765 of the Code states:

26 A plea or verdict of guilty or a conviction following a plea of *nolo*
27 *contendere* made to a charge substantially related to the qualifications, functions
and duties of a registered nurse is deemed to be a conviction within the meaning
28 of this article. The board may order the license or certificate suspended or

1 revoked, or may decline to issue a license or certificate, when the time for appeal
2 has elapsed, or the judgment of conviction has been affirmed on appeal or when
3 an order granting probation is made suspending the imposition of sentence,
4 irrespective of a subsequent order under the provisions of Section 1203.4 of the
5 Penal Code allowing such person to withdraw his or her plea of guilty and to enter
6 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
7 accusation, information or indictment.

8 **REGULATORY PROVISIONS**

9 12. California Code of Regulations, title 16, section 1444, states:

10 A conviction or act shall be considered to be substantially related to the
11 qualifications, functions or duties of a registered nurse if to a substantial degree it
12 evidences the present or potential unfitness of a registered nurse to practice in a
13 manner consistent with the public health, safety, or welfare. Such convictions or
14 acts shall include but not be limited to the following:

- 15 (a) Assaultive or abusive conduct including, but not limited to, those
16 violations listed in subdivision (d) of Penal Code Section 11160.
- 17 (b) Failure to comply with any mandatory reporting requirements.
- 18 (c) Theft, dishonesty, fraud, or deceit.
- 19 (d) Any conviction or act subject to an order of registration pursuant to
20 Section 290 of the Penal Code.

21 13. California Code of Regulations, title 16, section 1445 states:

22
23 (b) When considering the suspension or revocation of a license on the
24 grounds that a registered nurse has been convicted of a crime, the board, in
25 evaluating the rehabilitation of such person and his/her eligibility for a license
26 will consider the following criteria:

- 27 (1) Nature and severity of the act(s) or offense(s).
- 28 (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or
offense(s).
- (4) Whether the licensee has complied with any terms of parole,
probation, restitution or any other sanctions lawfully imposed against the
licensee.
- (5) If applicable, evidence of expungement proceedings pursuant
to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

///

1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request
3 the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(February 10, 2011 Criminal Conviction for DUI on July 26, 2010)**

8 15. Respondent has subjected her registered nurse license to disciplinary action under
9 Code sections 490 and 2761, subdivision (f), in that she was convicted of a crime that is
10 substantially related to the qualifications, functions, and duties of a registered nurse. The
11 circumstances are as follows:

12 a. On or about February 10, 2011, in a criminal proceeding entitled *The*
13 *People of the State of California v. Vanessa Kenley*, in San Diego County Superior Court Central
14 Division, case number M115265, Respondent was convicted on her plea of guilty of violating
15 Vehicle Code (VC) section 23152, subdivision (b), driving while having more than 0.08 percent
16 blood alcohol concentration (BAC), a misdemeanor. An additional charge for violation of VC
17 section 23152, subdivision (a), driving under the influence (DUI) of alcohol, a misdemeanor,
18 was dismissed as a result of a plea bargain.

19 b. As a result of the conviction, on or about February 10, 2011, Respondent
20 was sentenced to five years summary probation under the following terms and conditions:
21 complete four days of service in a Public Service Program with credit for one day served; enroll
22 in and complete a First Conviction Program and a Mothers Against Drunk Driving treatment
23 program; pay fines and fees of \$2,040.00; and comply with the terms of standard DUI probation.

24 c. The facts that led to the conviction are that on or about July 26, 2010,
25 Respondent collided head-on with a vehicle parked along the curb opposite her lane of travel in
26 San Diego, California. A responding Officer from the San Diego Police Department (SDPD)
27 smelled alcohol upon initial contact with Respondent. After identifying Respondent as the driver
28 of the moving vehicle that collided into the parked vehicle, the Officer asked investigative

1 questions to evaluate if Respondent was driving while impaired. Respondent admitted having
2 taken the anti-depressants Zoloft and Wellbutrin at about 4 in the afternoon and to drinking
3 alcohol from 9 to 11 in the evening prior to the collision in or about 1:49 in the morning. The
4 Officer then conducted a series of field sobriety tests on Respondent. Based on the circumstances
5 surrounding the collision and Respondent's performance in the tests, she was arrested for DUI
6 and transported to SDPD headquarters for a blood test, which revealed a BAC of 0.19 percent.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

9 16. Respondent has subjected her registered nurse license to disciplinary action under
10 Code section 2762, subdivision (b) in that on or about July 26, 2010, as described in paragraph
11 15, above, Respondent used alcoholic beverages to an extent or in a manner that was potentially
12 dangerous and injurious to herself and to others when she operated a motor vehicle while
13 impaired with a significantly high blood alcohol concentration and caused an accident.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Conviction of Alcohol Related Criminal Offenses)**

16 17. Respondent has subjected her registered nurse license to disciplinary action under
17 Code section 2762, subdivision (c), in that on or about February 10, 2011, as described in
18 paragraph 15, above, Respondent was convicted of a criminal offense involving the consumption
19 of alcohol.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein
22 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 727980, issued to
24 Vanessa Danielle Kenley;

25 ///

26 ///

27 ///

28 ///

1 2. Ordering Vanessa Danielle Kenley to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5
6
7

8 DATED:

June 15, 2012

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

12
13 SD2012802366
14 70547972.doc
15
16
17
18
19
20
21
22
23
24
25
26
27
28



Exhibit B

Letter of Public Reproval



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



November 6, 2012

Vanessa Danielle Kenley
10284 Wateridge Circle #246
San Diego, CA 92121

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Vanessa Danielle Kenley, Registered Nurse License No. 727980

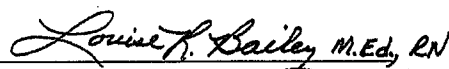
Dear Nurse Kenley:

On June 30, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License. The Accusation alleged that you engaged in unprofessional conduct under Business and Professions Code sections 490 and 2761, subdivision (f), in that you were convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. Specifically, on or about February 10, 2011, in a criminal proceeding entitled *The People of the State of California vs. Vanessa Kenley*, in San Diego County Superior Court Central Division, case number M115265, you were convicted on your plea of guilty of violating Vehicle Code (VC) section 23152, subdivision (b), driving while having more than 0.08 percent blood alcohol concentration (BAC), a misdemeanor. An additional charge for violation of VC section 23152, subdivision (a), driving while under the influence (DUI) of alcohol, a misdemeanor, was dismissed as a result of a plea bargain.

Taking into consideration that you have been licensed by the California Board since 2008 without any prior disciplinary action and that you have fully complied with the requirements of your criminal probation, as well as other mitigating circumstances, the Board has determined that you are safe to practice as a registered nurse and that the charges alleged in the Accusation warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,


LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California